

HANDWRITING EXEMPLAR PACKET

INSTRUCTIONS FOR INVESTIGATOR

1. Have the subject complete the first two exemplar pages with every exemplar taken.
2. Use exemplar C for dictated material. The exemplar taken on this page should be of the same topic as the questioned writing. Analysis is best done when a quantity of writing is available for comparison.
3. Instruct the subject to write in cursive or print – depending on the style in the question document.
4. Have the subject use the same or similar writing instrument as used in the questioned writing.
5. Keep subject under observation while exemplar is being taken.
6. Note subject's physical condition giving attention to the influence of drugs or alcohol.

CFS# _____

EXEMPLAR

A

NAME _____
LAST FIRST MIDDLE

NAME TELEPHONE # SEX

ADDRESS CITY STATE

BIRTHPLACE BIRTHDAY AGE

COLOR OF HAIR COLOR OF EYES HEIGHT WEIGHT

OCCUPATION SCHOOL

EMPLOYER FROM TO

NAME OF NEAREST RELATIVE RELATIONSHIP

ADDRESS OF ABOVE CITY STATE

IN CASE OF EMERGENCY NOTIFY

ADDRESS OF ABOVE CITY STATE

MONTHS OF THE YEAR

DAYS OF THE WEEK

CAPITAL LETTERS

SMALL LETTERS

WRITE THE FOLLOWING

ONE TWO THREE FOUR FIVE SIX SEVEN EIGHT NINE
TEN TWENTY HUNDRED DOLLARS CENTS AND & CASH THOUSAND

I AM WRITING THIS EXEMPLAR WITH MY _____ HAND

SIGNATURE DATE

THE ABOVE IS A SAMPLE OF MY NORMAL HANDWRITING

EXEMPLAR

B

PRINTED NAME

DATE

HIGHEST GRADE

COMPLETED & SCHOOL

(FIRST, MIDDLE, LAST)

Use the space below for dictated material.

4768 N. 49TH STREET

1828 NORTH 300 AVE.

3746 WEST BLVD. , N.E.

5819 E. SOUTH TERR., S.E.

Abbot

succeed

effort

gaggle

simmer

root

array

essence

Battle

Arthur Bob Charles

Don Edward Frank

George Henry Johnson

Ken Ivan MacMay

Nancy Olson Paul

Robert Steven Tom

Vicki Winn Yancy

Lloyd T. McGriff

James H. McQueen

Larry Brown Gonzales

Wilson Earl Jones

Route 6, Box 358, Apt. 842

SIGNATURE

DATE

THE ABOVE IS A SAMPLE OF MY NORMAL HANDWRITING

FOR INVESTIGATOR'S USE ONLY

WITNESSED BY:

DATE

EXEMPLARS OF (PRINT LAST NAME, FIRST NAME, INITIAL)

CFS #

RACE

SEX

USE THIS SPACE FOR DICTATED MATERIAL

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| | |
|--|------------|
| SIGNATURE | DATE |
| THE ABOVE IS A SAMPLE OF MY NORMAL HANDWRITING | |
| FOR INVESTIGATOR'S USE ONLY | |
| DR/CFS # | DATE TAKEN |

Date _____

Pay to the order of _____ \$

_____ dollars.

Memo _____

Date _____

Pay to the order of _____ \$

_____ dollars.

Memo _____

Date _____

Pay to the order of _____ \$

_____ dollars.

Memo _____

The Egyptian Letter

Dear Sam:

From Egypt we went to Italy, and then took a trip to Germany, Holland and England. We enjoyed it all but Rome and London most. In Berlin we met Mr. John O. Young of Messrs. Tackico & Co., on his way to Vienna. His address there is 147 upper Zeiss Street, care of Dr. Quincy W. Long. Friday the 18th, we join C. N. Dazet, Esquire and Mrs. Dazet, and leave at 6:30 A.M. for Paris on the 'Q. X.' Express and early on the morning on the 25th of June start for home on the S. S. King.

Very sincerely yours,"

The Class of "16" Letter

Dear Zach,

Well, the old class of "16" is through at last. You ask where the boys are to be. Val Brown goes on the 24th to Harvard for law. Don't forget to address him as "Esquire." Ted Updyke takes a position with the N. Y. W. H. & H. R. R., 892 Ladd Ave., Fall River, Massachusetts, and Jack McQuade with the D. L. & W. at Jersey City, N. J. 400 E. 6th Street. William Fellows just left for a department position in Washington; his address is 735 South G. St. At last account, Dr. Max King was to go to John Hopkins for a Ph.D. degree. Think of that! Elliott goes to Xenia, Ohio, to be a Y. M. C. A. secretary. I stay here for the present. What do you do next? How about Idaho?

Yours truly, and goodbye.

Additionally the writer may be instructed to reproduce all of the printed and cursive letters of the alphabet, both upper case and lower case. He may also be asked to write numbers from "1" to "100". Other dictated material as necessary, such as the days of the week or months of the year, may also be required.

Some agencies have developed their own generic handwriting exemplar forms. It would appear that many of these have been created by someone with a misplaced sense of humor, requiring the subject to write names such as Xerxes Y. Zitto or Urestes V. Whitehouse.

Because of the new river of immigrants currently arriving in many areas of the United States, the

The London Business Letter

Prior to taking comparable handwriting samples from a suspect or victim, an investigator may want, as a warm up, to dictate the content of the following paragraph known as the London Business Letter which conveniently incorporates all twenty-six letters of the alphabet (upper and lower case) and numerals 0 through 9.

“Our London business is good, but Vienna and Berlin are quiet. Mr. D. Lloyd has gone to Switzerland and I hope for good news. He will be there for a week at 1496 Zermott St. and then goes to Turin and Rome and will join Col. Parry and arrive at Athens, Greece, Nov. 27th or Dec. 2nd. Letters there should be addressed: King James Blvd. 3580. We expect Chas. E. Fuller Tuesday. Dr. L McQuaid and Robt. Unger, Esq., left on the “Y.X.” Express tonight.”

Date 8-1-09

Pay to the order of Walmart \$ 100⁰⁰/xx

One hundred dollars & ⁰⁰/100 dollars.

Memo Joe's stuff

Melissa Huff-Hoob

Date 8-1-09

Pay to the order of Walmart \$ 100⁰⁰/100

One hundred dollar and ⁰⁰/100 dollars.

Memo Food

Jessie Wilton

Date 8/1/09

Pay to the order of Wal-Mart \$ 100.00

One Hundred & ⁰⁰/100 dollars.

Memo School Supply's

Joseph C. [Signature]

MARK S. WERNER
Senior Litigator
Federal Defenders of Montana
Billings Branch Office
P.O. Box 1778
Billings, MT 59103
Phone: (406) 259-2459
Fax: (406) 259-2569
Email: mark_werner@fd.org

Attorney for Defendant

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
BILLINGS DIVISION

| | |
|--|---|
| UNITED STATES OF AMERICA, Plaintiff, vs. YOLANDA CHRISTY COSTA, Defendant. | Crim No. CR-08-129-BLG-RFC AFFIDAVIT OF INVESTIGATOR JOSEPH GAFFNEY |
|--|---|

STATE OF MONTANA)
 ss.
County of Missoula)

Joseph Gaffney, states as follows, under penalty of perjury.

1. My name is Joseph Gaffney. I am over the age of 18 years old and I reside in Missoula, Montana.
2. I am employed by the Federal Defenders of Montana, Inc., as the Investigator for the Missoula Branch office.

3. I have sixteen years of experience examining hundreds of handwriting specimens in connection with questioned documents and have successfully completed both the United States Secret Service Basic and Advanced Questioned Documents Courses.
4. I have been called upon to give qualified testimony regarding matters of handwriting comparison of questioned documents within the Fourth Judicial District Court, and Municipal Court, in Missoula, Montana. (See Attached CV)
5. On July 17, 2009, the Federal Defenders of Montana Investigator, for the Billings Branch Office, Russ Curry, requested my assistance in examining handwriting belonging to Yolanda Christy Costa (Ms. Costa). Specifically, handwriting specimens written by Ms. Costa using her right and left hands.
6. I provided Mr. Curry handwriting exemplars for Ms. Costa to fill out, one titled "The Egyptian Letter," one titled "The Class of "16" Letter." Additionally, I provided two pages of blank checks for Ms. Costa to fill out, each using her right and left hand.
7. On July 21, 2009, I received via email eight handwritten specimens purported to have been filled out by Ms. Costa in the presence of Investigator Curry. The specimens were printed and given a specimen number by me on the lower left of each page, K1 through K8
8. Specimens:
9. K1 - "The Class of "16" Letter"
10. K2 - "The Egyptian Letter"
11. K3 - "Wal-Mart," "Target" and "Albertson's" checks
12. K4 - "The Class of "16" Letter"
13. K5 - "The Egyptian Letter"

14. K6 - "Wal-Mart," "Target" and "Albertson's" checks
15. K7 - "Advice of Penalties and Sanctions" form dated November 18, 2008
16. Q8 - "Advice of Rights" form dated July 19, 2008 at 3:06 P.M.
17. Specimens K1, K2 and K3 were purported to be written by Ms. Costa using her left hand. Specimens K4, K5 and K6 were purported to be written by Ms. Costa using her right hand.
18. Specimens K7 and Q8 were purported to be written by Ms. Costa but it is unknown by which hand.
19. After examining all submitted specimens, the Yolanda Costa signature on Q8, Advice of Rights form dated July 19, 2008, was written by Ms. Costa using her right hand.
20. All the specimens were independently examined by Barbara Fortunate, Crime Scene Technician for the Missoula Police Department. Ms. Fortunate reached the same conclusion.

I swear to the best of my knowledge and memory, the forgoing is true and correct this 21st day of July, 2009.

FURTHER I STATE NOT.

Joseph C. Gaffney
Federal Defender Investigator
Federal Defenders of Montana
P.O. Box 9380
Missoula, MT 59807
(406) 721-6749

SUBSCRIBED AND SWORN to before this 21st day of July, 2009.

MELISSA STURTZ-HAAB
Notary Public for the State of Montana
Residing in Missoula, Montana
My Commission Expires: May 15, 2008

ADVICE OF RIGHTS

Place BH County Jail
Date 2/19/08
Time 3:06 p.m.

YOUR RIGHTS

Before we ask you any questions, you must understand your rights.

You have the right to remain silent.

Anything you say can be used against you in court.

You have the right to talk to a lawyer for advice before we ask you any questions.

You have the right to have a lawyer with you during questioning.

If you cannot afford a lawyer, one will be appointed for you before any questioning if you wish.

If you decide to answer questions now without a lawyer present, you have the right to stop answering at any time.

I have read this statement of my rights and I understand what my rights are. At this time, I am willing to answer questions without a lawyer present.

Signed Yolanda Castre

Witness: [Signature] SCA, FBI

Witness: [Signature] BIA #249

Time: 3:08 p.m.

Q8

Dear Zach,

Well, the old class of "16" is through at last. You ask where
the boys are to be. Val Brown goes on the 24th to
Harvard for law. Don't forget to address him as
"Esquire" (body he takes a position with the N.Y.W.H.
& H.R.A. 873 Laad Ave., Fall River, Massachusetts;
and Jack McQuade with the D.L.W. at
Jersey City, N.J. 400 E. 6th Street William
Fallows just left for a department position in
Washington; his address is 795 South G. St. At
last account, Dr. M.G. King was to go to John Hopkins
for a Ph.D. - degree. Think of that? It all goes to
hell. Which to be a Y.M.C.A. secretary. I stop here
for the present. What do next? How about Idaho?

Yours truly and goodbye.

Volney Costa

Dear Sam:

From Egypt we went to Italy, and then took a trip to Germany, Holland and England. We enjoyed it all but Rome and London most. In Berlin we met Mr. John D. Young of Messrs. Tasker & Co., on his way to Vienna. His address there is 147 upper Zeiss Street, care of Dr. Quing W. Long. Friday the 18th we joined C. N. Dorset Esquire and Mrs. Dorset and leave at 6:30 AM. for Paris on the O.X. Express and early on the morning on the 25th of June start for home on the S.S. King.

Very sincerely yours

Yokanda Galt
Certa

K2

Date 7/21/09

Pay to the order of Wal-Mart \$ 100.00

One Hundred and xx/100 dollars.

Memo _____ Yolanda Costa

Date 7/21/09

Pay to the order of Target \$ 50.00

Fifty and xx/100 dollars.

Memo _____ Yolanda Costa

Date 7/21/09

Pay to the order of Albertson's \$ 34.00

Thirty Four and xx/100 dollars.

Memo _____ Yolanda Costa

K3

Pear Zach,

Well, the old Class of '16' is through at last.
You ask where the boys are to be. Val Brown
goes on the 24th to Harvard for law. Don't
forget to address him as "Esquire." Ted Updyke
takes a position with the N.Y.W. H. & H. R.R., 892
Ladd Ave., Fall River, Massachusetts, and
Jack McQuade with the P. L. & W. at Jersey City,
N.J. 400 E. 6th Street. William Fellows just
left for a department position in Washington; his
address is 735 South G. St. At last account,
Dr. Maxx King was to go to John Hopkins for a
Ph.D. degree. Think of that! Elliott goes to
Xenia, Ohio, to be a Y.M.C.A. Secretary. I
stay here for the present. What do you do next?
How about Idaho?

Yours truly. and goodbye.

Yolanda Costa

K4

Dear Sam:

From Egypt we went to Italy, and then took a trip to Germany, Holland and England. We enjoyed it all but Rome and London most. In Berlin we met Mr. John D. Young of Messrs. Tackico & Co., on his way to Vienna His address there is 147 upper Zeiss Street, Care of Dr. Quincy W. Long. Friday the 18th, we join C. N. Dazet, Esquire and Mrs. Dazet and leave at 6:30 Am, for Paris on the 'Q.X.' Express and early on the morning on the 25th of June start for home on the S.S. King.

Very sincerely yours,"

Yolanda Costa

K5

Date 7/21/09

Pay to the order of Wal-Mart \$ 100.00

One Hundred and xx/100 dollars.

Memo Yolanda Costa

Date 7/21/09

Pay to the order of Target \$ 50.00

Fifty and xx/100 dollars.

Memo Yolanda Costa

Date 7/21/09

Pay to the order of Albertson's \$ 34.00

Thirty ~~and~~ four and xx/100 dollars.

Memo Yolanda Costa

K6

Advice of Penalties and Sanctions**TO THE DEFENDANT:****YOU ARE ADVISED OF THE FOLLOWING PENALTIES AND SANCTIONS:**

A violation of any of the foregoing conditions of release may result in the immediate issuance of a warrant for your arrest, a revocation of release, an order of detention, and a prosecution for contempt of court and could result in a term of imprisonment, a fine, or both.

The commission of a Federal offense while on pretrial release will result in an additional sentence of a term of imprisonment of not more than ten years, if the offense is a felony; or a term of imprisonment of not more than one year, if the offense is a misdemeanor. This sentence shall be in addition to any other sentence.

Federal law makes it a crime punishable by up to 10 years of imprisonment, and a \$250,000 fine or both to obstruct a criminal investigation. It is a crime punishable by up to ten years of imprisonment, and a \$250,000 fine or both to tamper with a witness, victim or informant; to retaliate or attempt to retaliate against a witness, victim or informant; or to intimidate or attempt to intimidate a witness, victim, juror, informant, or officer of the court. The penalties for tampering, retaliation, or intimidation are significantly more serious if they involve a killing or attempted killing.

If after release, you knowingly fail to appear as required by the conditions of release, or to surrender for the service of sentence, you may be prosecuted for failing to appear or surrender and additional punishment may be imposed. If you are convicted of:

- (1) an offense punishable by death, life imprisonment, or imprisonment for a term of fifteen years or more, you shall be fined not more than \$250,000 or imprisoned for not more than 10 years, or both;
- (2) an offense punishable by imprisonment for a term of five years or more, but less than fifteen years, you shall be fined not more than \$250,000 or imprisoned for not more than five years, or both;
- (3) any other felony, you shall be fined not more than \$250,000 or imprisoned not more than two years, or both;
- (4) a misdemeanor, you shall be fined not more than \$100,000 or imprisoned not more than one year, or both.

A term of imprisonment imposed for failure to appear or surrender shall be in addition to the sentence for any other offense. In addition, a failure to appear or surrender may result in the forfeiture of any bond posted.

Acknowledgement of Defendant

I acknowledge that I am the defendant in this case and that I am aware of the conditions of release. I promise to obey all conditions of release, to appear as directed, and to surrender for service of any sentence imposed. I am aware of the penalties and sanctions set forth above.

Volanda Costa
Signature of Defendant

P. O. BOX 47

Address

PRYOR, MT 59066

City and State

Telephone

Directions to United States Marshal

- () The defendant is ORDERED released after processing.
- () The United States marshal is ORDERED to keep the defendant in custody until notified by the clerk or judicial officer that the defendant has posted bond and/or complied with all other conditions for release. The defendant shall be produced before the appropriate judicial officer at the time and place specified, if still in custody.

Date: November 18, 2008

[Signature]
Signature of Judicial Officer

Name and Title of Judicial Officer

WHITE COPY - COURT

YELLOW - DEFENDANT

GREEN - PRETRIAL SERVICE

BLUE - U.S. ATTORNEY

PINK - U.S. MARSHAL

K7

SOURCES OF STANDARD HANDWRITING

Inquiry at the following sources will often yield the desired specimens which could qualify as standards:

APPLICATIONS

For licenses
For employment
For loans
For permits
For bail bonds
For utility service
For money orders
For naturalization
For school enrollment
For reservations
For operators's license
For enlistment (military)
For insurance
For mortgages
For money (telegraph)

CONTRACTS

Gas & Electric
Telephone
Installment
Purchase
Loans
Mortgages
Partnership
Furniture

MUNICIPAL & STATE RECORDS

Baptismal Certificates
Marriage Certificates
Death Certificates
Surrogate's Court
Police Court
Children's Court
Bail Bonds
Complaint Bureaus
Bankruptcy Records
Civil Service
Motor Vehicle
Court of Claims
Tax Returns
Civil Proceedings
Voting Records
Permits & Licenses
Jury Duty Records

FEDERAL GOVERNMENT

Tax Returns
Civil Service
Penitentiary
Other institutions
Military records
Passports
Immigration
Customs
U. S. Post Office
Federal Court
Bail Bonds
Naturalization
Patents
Copyrights
Permittee reports

BUSINESS & SOCIAL

Office Personnel
Business Associates
Memoranda (handwritten)
Professional Rolls
Clubs and Lodges
Societies & Fraternities
School & College
Express & Telegraph
Incorporation papers
Notaries
Family and Friends
Social Letters
Cancelled checks
Bank records
Power of Attorney
Safe Deposit Companies
Neighbors & Friends
Valentines & Post Cards
Receipted Bills
Insurance records
Department receipts
Travel Reservations
Autograph Albums
Political Organizations
Labor Union Records
Time Cards
Pension Records

101 SOURCES OF HANDWRITING SPECIMENS

1. Account books
2. Affidavits
3. Assignments
4. Autographs
5. Automobile insurance applications
6. Automobile license applications
7. Automobile title certificates
8. Bank deposit slips
9. Bank safe deposit entry slips
10. Bank savings withdrawal slips
11. Bank signature cards
12. Bank statements, receipts for
13. Bible entries
14. Bills of sale
15. Bonds
16. Books, signatures of owner in
17. Building "after hours" registers
18. Business license applications
19. Charity pledges
20. Check book stubs
21. Checks, including endorsements
22. Church pledges
23. Convention registration books
24. Contracts
25. Cooking recipes
26. Corporation papers
27. Criminal records
28. Credit applications
29. Credit cards
30. Deeds
31. Deeds of trust
32. Depositions
33. Diaries
34. Dog license applications
35. Drafts
36. Drive-it-yourself applications
37. Drivers licenses and applications
38. Druggists' poison registers
39. Employment applications
40. Envelopes
41. Fishing licenses
42. Funeral attendance registers
43. Gas service applications
44. Gasoline mileage records
45. Gate records at defense plants
46. Greeting cards, Christmas, etc.
47. Hospital entry applications, etc.
48. Hotel and motel guest registers
49. Hunting license
50. Identification cards
51. Inventories
52. Leases, real property
53. Letters
54. Library card applications
55. Light company applications
56. Life insurance applications
57. Loan applications
58. Mail orders
59. Manuscripts
60. Marriage records
61. Membership cards
62. Memoranda of all kinds
63. Military papers
64. Mortgages
65. Newspaper advertisement copy
66. Occupational writings
67. Package receipts
68. Parents signatures on report cards
69. Partnership papers
70. Pawn tickets
71. Passports
72. Payroll receipts
73. Pension applications
74. Permit applications
75. Petitions, referendum, etc.
76. Photograph albums
77. Pleadings
78. Postal cards
79. Probate court papers
80. Promissory notes
81. Property damage reports
82. Receipts for rent, etc.
83. Registered mail return receipts
84. Releases of mortgages
85. Rental contracts for equipment
86. Reports
87. Retail store sales slips
88. School and college papers
89. Social security cards & papers
90. Sport and game score cards
91. Stock certificates, endorsements on
92. Surety bond applications
93. Tax estimates and returns
94. Telegram copy
95. Telephone service applications
96. Time sheets
97. Traffic tickets
98. Voting registration records
99. Water company service applications
100. Wills
101. Workmens compensation papers

INCONCLUSIVE OPINIONS AS VIEWED BY THE COURTS^{1,2}

Comments by the court on qualified opinions.

by Charles C. Scott³

REFERENCES: Scott, C. C., "Inconclusive Opinions As Viewed by the Courts," *International Journal of Forensic Document Examiners*, Vol. 5, Jan/Dec 1999, pp. 237-239.

ABSTRACT: Comments, observations and case law related to the admissibility of document examinations opinions to the court.

KEYWORDS: Court decisions, inconclusive opinions, document examination.

"Certitude is not the test of certainty. We have been cocksure of many things that were so." Oliver Wendell Holmes, Jr., "Natural Law," 32 Harvard Law Review 40.

Introduction

Many document examiners and some lawyers think an expert's opinion is never admissible in evidence unless it is based upon a reasonable degree of scientific certainty. Actually, if a document examiner is properly qualified, his opinion is admissible regardless of its degree of certainty. Lack of certainty affects the weight but not the admissibility of his opinion. Indeed, under Rule 702 of the Federal Rules of Evidence and similar state rules, an expert may testify "in the form of an opinion or otherwise." This has been construed as meaning that even though an expert has not formed an opinion, if he is properly qualified he may take the stand, give an explanation of scientific or other principles, state what he observed as a result of his examination, and leave it to the judge or jury to form an opinion pertinent to the case.

Judges often are impressed more by an expert who expresses his best judgment than by one who is absolutely sure about everything. Of course, if a witness is certain he can and should so testify. There is no sound reason he should express doubts about the validity of an opinion when he has none. See the Matter of the Will of Ray, 242 S.E.2d 194, 35 N.C.App. 646 (1978).

In the Lindberg Kidnapping case, Albert S. Osborn testified that the conclusion that Hauptmann wrote every one of the ransom notes was irresistible, unanswerable, and overwhelming. *State v. Hauptmann*, 180 A. 80, 115 N.J. Law 412, cert. denied 56 S.Ct. 310, 296 U.S. 649, 80 L.Ed.461. He was right, no doubt, but had the case not been a cause celebre words expressing such certitude might have been considered objectionable.

The above observations are amply supported by the following digest of case law:

United States

United States v. Calvin, 394 F.2d 228 (C. C. A. 3, 1968). Check forgery case. Qualified handwriting expert's testimony that "it is probable that" defendant forged endorsements on checks in question was sufficient to permit jury to find guilt beyond a reasonable doubt on forgery count.

"[T]he opinion of a handwriting expert, once admitted, can be used for the same purposes and to the same effect as the opinion of other experts . . . and is not inadmissible under the Opinion Rule or otherwise because it expresses a probability. —Id.

Any reservations expressed by a handwriting expert while stating an opinion, as with shortcomings in an expert's qualifications, go to the weight of the evidence and are a determination for the jury or fact finder to make. —Id.

United States v. Spencer, 439 F.2d 1047 (C.C.A.2, 1971). Testimony of handwriting expert, while somewhat equivocal, supported defendant's connection with forged checks.

United States v. Wilson, 441 F.2d 655 (C.C.A.2, 1971). A handwriting expert need not have absolute certitude about his opinion for it to be allowed in evidence.

A handwriting expert's lack of absolute certitude goes to the weight, not the admissibility of his opinion. —Id.

United States v. Harper, 457 F.2d 373 (C.C.A.7, 1972). Here a handwriting expert testified that his opinion was "slightly qualified." The only reason for that slight qualification was the fact that the letters in the handwriting exemplars did not always appear in the same sequence as on the check in question.

United States v. McNeal, 463 F.2d 1180 (C.C.A.5, 1972). "[A] document analyst with the office of the Examiner of Questioned Documents, Department of Treasury, testified that in his opinion it was 'highly probable,' which to him meant 'virtually certain,' that the . . . endorsement on the back of the check was written by McNeal."

United States v. Ranta, 482 F.2d 1344 (C.C.A.8, 1973). Government handwriting expert could not determine conclusively that defendant's handwriting was the same as that found on the forged check, nor could he exclude defendant as the writer. Neither the prosecutor nor the counsel for the defendant called the handwriting expert but, over defendant's objection, the court permitted the jury to compare exemplars of defendant's handwriting with endorsement on check in question. No error.

United States v. Woodson, 526 F.2d 550 (C.C.A.9, 1975). Even though government's handwriting expert testified he was unable to say whether signatures in question and defendant's handwriting exemplars were of common or dissimilar authorship, it was not error to instruct the jury that it was free, under the usual rule permitting it to either accept or reject part or all of the testimony of an expert, to arrive at its own conclusion about the question.

United States v. Ledee, 549 F.2d 990 (C.C.A.5, 1977). Report of government's handwriting expert stated that due to the presence of distortion in portions of the questioned writing and the presence of unexplained handwriting characteristics, no definite conclusion could be reached as to whether or not the person who signed cards and letters (from appellant to his girlfriend) was the same individual who signed as the maker on the checks involved in the charges. The government did not call the expert but the testimony which would have been given by him was stipulated to by the government and explained to the jury by the court. Conviction affirmed. The stipulation is set out in the opinion.

United States v. Fleishman, 684 F.2d 1329 (C.C.A.9, 1982) cert. denied 103 S.Ct. 464. "To make handwriting testimony admissible in evidence, absolute certainty of result is not required."

¹Received January 15, 1997. Permission to reprint granted by the office of Mr. Scott.

²Presented at the 46th Annual Meeting of the American Society of Questioned Document Examiners, Aurora, Colorado, 1988.

³(Deceased), Forensic Document Examiner, Kansas City, Missouri.

Allegation that handwriting expert's opinion is uncertain, goes to the weight of his testimony rather than its admissibility. — *Id.*

If a witness is properly qualified as a handwriting expert, his testimony, regardless of the level of certainty as to his conclusions, fulfills the requisites of Rule 702 of the Federal Rules of Evidence and is helpful in assisting the jury in its deliberations. — *Id.*

United States v. Tovar, 687 F.2d 1210, 1215 (C.C.A.8,1982). "Regent testified that the signatures on the money orders were 'probably' the same as those on the exemplars obtained from Tovar. Tovar urges that when Regent used 'probably' to qualify his opinion he was speculating. This argument is without merit. . . . Regent's use of 'probably' indicates some degree of certainty based neither on mathematical odds nor mere speculation. Thus, the trial judge did not err in allowing Regent to testify as he did."

United States v. Hardrich, 707 F.2d 992 (C.C.A.8, 1983). Handwriting expert's testimony that defendant "may have written" some of the documents in question was sufficiently probative as to be admissible under Rule 702, Federal Rules of Evidence.

United States v. Herrera, 832 F.2d 833 (C.C.A.4,1987). Handwriting expert's "somewhat equivocal" testimony that he had a "high degree of belief" that the handwriting in question was that of defendant, was admissible. An expert opinion on handwriting need not be based upon absolute certainty in order to be admissible.

California

People v. Sheridan, 29 P.2d 464, 136 Cal. App.2d 675 (1934). In summarizing the evidence in this forgery case the court quoted, without comment, handwriting expert's testimony that his opinion was not certain because the amount of standard writing was quite limited.

People v. Gaines, 34 P.2d 146, 1 Cal.2d 565 (1934). Since defendant's handwriting expert could not express a definite opinion on a signature question, defendant's counsel sought to have him point out the features of the handwriting of the defendant and the complaining witness. The trial court refused the request, stating that it was not the function of a handwriting expert to point out a lot of similarities and dissimilarities. The appellate court held this was error. This holding is in accord with the modern view expressed in Rule 702 of the Federal Rules of Evidence which provides that an expert may testify "in the form of an opinion or otherwise."

People v. Geibel, 208 P.2d 743 (Cal. App.1949). Forgery case. Here the appellate court, without criticism, discussed handwriting expert's testimony that while he could not say positively that the same person wrote the body of a document and the signature, it was his best judgment the same person did.

People v. Torres, 331 P.2d 224, 164 Cal. App.2d 621 (1958). Where document examiner testified that because of insufficient exemplars he could not reach a positive conclusion as to whether defendant filled in the check in question, the jury was authorized to make their own comparison and reach their own conclusion.

People v. Gray, 4 Cal. Rptr. 605 (1960). Testimony of defendant's handwriting expert, because of its conceded uncertainty and qualified nature, was not sufficient to render incredible the testimony of a witness who saw a document signed.

Colorado

Cheatwood v. People, 435 P.2d 402, 164 Cob. 334 (1968). FBI report stated that due to unexplainable handwriting variations, a

definite conclusion was not reached as to whether defendant endorsed the check in question. However, differences in handwriting were noted. New trial granted, in part because the existence of this report was not revealed to defendant until after his trial and conviction.

District of Columbia

Clifford v. United States, 532 A.2d 628, 639 (D.C.App. 1987). "Expert evidence must derive from a science or art sufficiently advanced to permit its practitioners to reach 'a reasonable opinion' about the matter in question; outright speculation may be excluded as not helpful to the jury, as more prejudicial than probative, or as too likely to confuse the jury."

"Short of pure speculation, the degree of certainty with which a particular expert witness proffers an opinion goes to the weight of the testimony, not to its admissibility, and the weight to be given an expert opinion is for the jury to decide." — *Id.*

"In particular, for an opinion to be admissible, an expert need not state that he or she holds the opinion to a 'reasonable scientific certainty.' *United States v. Cyphers*, 553 F.2d 1064, 1072 (7th Cir.), cert. denied, 434 U.S. 843, 98 S.Ct. 142, 54 L.Ed.2d 107 (1977); *State v. Woodbury*, 403 A.2d 1166, 1170 (Me.1979). A rule of admissibility demanding a greater level of self-proclaimed certainty on the witness' part would remove from the jury its role in weighing the evidence." — *Id.*

The question of the admissibility of expert opinion is different from the question of the sufficiency of an expert's opinion to prove an element of a claim or defense. Where an essential element of proof can only be shown through expert testimony, there is good reason for courts "to take steps to assure that reliable opinions are given." — *Id.*

Florida

Dozier v. Smith, 446 So.2d 1107 (Fla.App.1984). Expert "was not able to reach a definite conclusion but indicated that the evidence leaned quite heavily toward the signature being genuine."

Iowa

State v. Willey, 171 N.W.2d 301 (Iowa 1969). "A handwriting expert, called as a witness for the defense, opined that his comparison of the check with the handwriting specimen did not conclusively show defendant authored the forged document. In support of this opinion he referred to differences in writing based in part on variations in slant, size, style and spacing."

Maryland

Whitehurst v. Whitehurst, 145 A. 204, 156 Md. 610 (1928). Here the court was impressed more by the opinion of defendant's expert, who said he could not give a positive opinion, than by the testimony of plaintiff's expert who "was sure, with a sureness characteristic of most experts."

DiPietro v. State, 356 A.2d 599, 31 Md.App. 392 (1976). "The . . . handwriting analysis by the F.B.I. stated that 'due to unexplained variations, it was not determined whether any of the questioned writing on Q-1 and Q-2 [the two forged checks] was or was not written by C. DiPietro, K-1 [the appellant].'" Nevertheless the trial judge made his own comparison of the writing on the

subject check and defendant's handwriting samples, and concluded that defendant wrote the subject check.

Missouri

State v. Forbus, 332 S.W.2d 931 (Mo.1960). Handwriting expert testified that he was "reasonably sure" that the endorsement on the back of the money order in question was in the same handwriting as the known specimens of defendant's handwriting submitted to him for comparison.

State v. Khajehnouri, 572 S.W.2d 238 (Mo.App.1978). Forgery case. Handwriting expert testified that the handwriting on the checks in question was "most probably" the handwriting of the person who gave exemplars.

A handwriting expert does not become disqualified as an expert merely because he qualifies his opinion.— *Id.*

Montana

State v. Forsyth, 642 P.2d 1035, 197 Mont. 248 (1982). Handwriting expert testified that writing in question when compared with exemplar taken from defendant, "could have been" that of defendant.

Nebraska

Dunbier v. Rafert, 103 N.W.2d 814, 170 Neb. 570 (1960). Expert testified that from a comparison of handwriting "he was unable to arrive at a conclusive opinion as to whether or not the true signature of [purported signer] appeared on the contract."

New Jersey

State v. Green, 258 A.2d 889, 55 N.J. 13 (1969). "[T]he expert concluded that although there was insufficient evidence to form a positive identification, there were numerous similarities between defendant's handwriting and the signature on the check, and the defendant could not be eliminated from consideration."

New York

People V. Hunter, 315 N.E.2d 436, 34 N.Y.2d 432, 358 N.Y.S.2d 360 (1974). Handwriting expert testified that endorsements on three of ten checks in question were in the handwriting of defendant but was unable to give an opinion as to the endorsements on the other seven checks because they were photostatic copies with a smaller scale. Nevertheless, under CPLR 4536, Consol.Laws, c. 8, providing that comparison of a "disputed writing" with a satisfactory standard is permissible, the seven photostatic copies with a smaller scale were properly admitted for the jury to make its own comparison.

People V. Hoffman, 489 N.Y.S.2d 374, 375, 111 A.D.2d 412 (1985). "Where the prosecution's expert witness testified that two of the three signatures found on the certificate of title were written by defendant, but as to the third he could only state that it very probably was written by defendant, a prima facie case of forgery in the second degree by falsely completing a commercial instrument has been made out."

North Carolina

State V. Curry, 220 S.E.2d 545, 288 N.C. 660 (1975). Burglary case. The state's handwriting expert testified that he could not determine whether a signature shown on a photostatic copy of a document offered by defendant to establish an alibi and the known sample of defendant's handwriting were written by the same person. He said the photostatic copy was not an adequate basis for the formation of a reliable opinion because a photostatic copy does not show clearly certain handwriting characteristics. Nevertheless, it was not error to permit him to testify as to observable differences between the signature as shown on the photocopy and the known sample of defendant's handwriting.

State v. Travis, 235 S.E.2d 66, 33 N.C.App. 330 (1977). It was proper to permit handwriting expert to testify that in his opinion it was "highly probable" defendant authored the writing in question.

Oregon

State V. Hartfield, 609 P.2d 390, 45 Or.App. 639 (1980). "The witness [handwriting expert] testified that by using the employment applications as exemplars it was his opinion that there was a strong possibility defendant had written the note; he was 90% sure. He said he could not be positive because the samples of handwriting were so few." [But the court held it was improper to permit the handwriting comparison because the employment applications used as exemplars were admitted in evidence over defendant's objection that they were not admitted or treated as genuine by defendant as required by ORS 42.070.]

Tennessee

Phillips v. Tidwell, 174 S.W.2d 472, 26 Tenn.App. 543 (1942). Equivocal statements such as "I think it is the same handwriting", impair the probative value of expert testimony.

Washington

State v. Haislip, 467 P.2d 284 (Wash.1970). Check forgery case. The court held that the fact that the state's handwriting expert testified he had no opinion and was unable to say with any assurance that defendant did or did not sign the checks in question was no reason that the jury could not independently make their own comparison.

Standard Terminology for Expressing Conclusions of Forensic Document Examiners¹

This standard is issued under the fixed designation E 1658; the number immediately following the designation indicates the year of original adoption or, in the case of revision, the year of last revision. A number in parentheses indicates the year of last reapproval. A superscript epsilon (ε) indicates an editorial change since the last revision or reapproval.

ε¹ **NOTE**—Title was corrected editorially in March 1999.

1. Scope

1.1 This terminology is intended to assist forensic document examiners in expressing conclusions based on their examination.

1.2 This terminology is based on the report of a committee of the Questioned Document Section of the American Academy of Forensic Science which was adopted as the recommended guidelines in reports and testimony by the Questioned Document Section of the American Academy of Forensic Science and the American Board of Forensic Document Examiners^{2,3}.

2. Referenced Documents

2.1 ASTM Standards:

E 444 Guide for Description of Work of Forensic Document Examiners²

3. Significance and Use

3.1 Document examiners should always begin their handwriting examinations from a point of complete neutrality. There are an infinite number of gradations of opinion toward an identification or toward an elimination. It is in those cases wherein the opinion is less than definite that careful attention is especially needed in the choice of language used to convey the weight of the evidence.

3.2 Common sense dictates that we must limit the terminology we use in expressing our degrees of confidence in the evidence to terms that are readily understandable to those who use our services (including investigators, attorneys, judges, and jury members), as well as to other document examiners. We must be careful that the expressions we use in separating the gradations of opinions do not become strongly defined "categories" that will always be used as a matter of convenience; instead, these expressions should be guidelines without sharply defined boundaries.

3.3 When a forensic document examiner chooses to use one of the terms defined below, the listener or reader can assume that this is what the examiner intended the term to mean. To avoid the possibility of misinterpretation of a term where the expert is not present to explain the guidelines in this standard, the appropriate definition(s) could be quoted in or appended to reports.

3.4 The examples are given both in the first person and in third person since both methods of reporting are used by document examiners and since both forms meet the main purpose of the standard, *i. e.*, to suggest terminology that is readily understandable. These examples should not be regarded as the only ways to utilize probability statements in reports and testimony. In following any guidelines, the examiner should always bear in mind that sometimes the examination will lead into paths that cannot be anticipated and that no guidelines can cover exactly.

3.5 Although the material that follows deals with handwriting, forensic document examiners may apply this terminology to other examinations within the scope of their work, as described in Guide E 444, and it may be used by forensic examiners in other areas, as appropriate.

3.6 *This standard does not purport to address all of the safety concerns, if any, associated with its use. It is the responsibility of the user of this standard to establish appropriate safety and health practices and determine the applicability of regulatory limitations prior to use.*

4. Terminology

4.1 Recommended Terms:

identification (definite conclusion of identity)—this is the highest degree of confidence expressed by document examiners in handwriting comparisons. The examiner has no reservations whatever, and although prohibited from using the word "fact," the examiner is certain, based on evidence contained in the handwriting, that the writer of the known material actually wrote the writing in question.

Examples—It has been concluded that John Doe wrote the questioned material, or it is my opinion [or conclusion] that John Doe of the known material wrote the questioned material.

strong probability (highly probable, very probable)—the evidence is very persuasive, yet some critical feature or

¹ This terminology is under the jurisdiction of ASTM Committee E-30 on Forensic Sciences and is the direct responsibility of Subcommittee E30.02 on Questioned Documents.

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² McAlexander, T. V., Beck, J., and Dick, R., "The Standardization of Handwriting Opinion Terminology," *Journal of Forensic Science*, Vol. 36, No. 2, March 1991, pp. 311–319.

³ *Annual Book of ASTM Standards*, Vol 14.02.

quality is missing so that an *identification* is not in order; however, the examiner is virtually certain that the questioned and known writings were written by the same individual.

Examples—There is *strong probability* that the John Doe of the known material wrote the questioned material, or it is my opinion (or conclusion or determination) that the John Doe of the known material *very probably* wrote the questioned material.

DISCUSSION—Some examiners doubt the desirability of differentiating between *strong probability* and *probable*, and certainly they may eliminate this terminology. But those examiners who are trying to encompass the entire "gray scale" of degrees of confidence may wish to use this or a similar term.

probable—the evidence contained in the handwriting points rather strongly toward the questioned and known writings having been written by the same individual; however, it falls short of the "virtually certain" degree of confidence.

Examples—It has been concluded that the John Doe of the known material probably wrote the questioned material, or it is my opinion (or conclusion or determination) that the John Doe of the known material *probably* wrote the questioned material.

indications (evidence to suggest)—a body of writing has few features which are of significance for handwriting comparison purposes, but those features are in agreement with another body of writing.

Examples—There is evidence which *indicates* (or *suggests*) that the John Doe of the known material may have written the questioned material but the evidence falls far short of that necessary to support a definite conclusion.

DISCUSSION—This is a very weak opinion, and a report may be misinterpreted to be an identification by some readers if the report simply states, "The evidence *indicates* that the John Doe of the known material wrote the questioned material." There should always be additional limiting words or phrases (such as "may have" or "but the evidence is far from conclusive") when this opinion is reported, to ensure that the reader understands that the opinion is weak. Some examiners doubt the desirability of reporting an opinion this vague, and certainly they cannot be criticized if they eliminate this terminology. But those examiners who are trying to encompass the entire "gray scale" of degrees of confidence may wish to use this or a similar term.

no conclusion (totally inconclusive, indeterminable)—This is the zero point of the confidence scale. It is used when there are significantly limiting factors, such as disguise in the questioned and/or known writing or a lack of comparable writing, and the examiner does not have even a leaning one way or another.

Examples—*No conclusion* could be reached as to whether or not the John Doe of the known material wrote the questioned material, or I could not determine whether or not the John Doe of the known material wrote the questioned material.

indications did not—this carries the same weight as the *indications* term that is, it is a very weak opinion.

Examples—There is very little significant evidence present in the comparable portions of the questioned and known writings, but that evidence *suggests* that the John Doe of the known material did not write the questioned material, or I have *indications* that the John Doe of the known material

did not write the questioned material but the evidence is far from conclusive.

See Discussion after **indications**.

probably did not—the evidence points rather strongly against the questioned and known writings having been written by the same individual, but, as in the probable range above, the evidence is not quite up to the "virtually certain" range.

Examples—It has been concluded that the John Doe of the known material probably did not write the questioned material, or it is my opinion (or conclusion or determination) that the John Doe of the known material probably did not write the questioned material.

DISCUSSION—Some examiners prefer to state this opinion: "It is unlikely that the John Doe of the known material wrote the questioned material." There is no strong objection to this, as "unlikely" is merely the Anglo-Saxon equivalent of "improbable".

strong probability did not—this carries the same weight as strong probability on the identification side of the scale; that is, the examiner is virtually certain that the questioned and known writings were not written by the same individual.

Examples—There is strong probability that the John Doe of the known material did not write the questioned material, or in my opinion (or conclusion or determination) it is highly probable that the John Doe of the known material did not write the questioned material.

DISCUSSION—Certainly those examiners who choose to use "unlikely" in place of "probably did not" may wish to use "highly unlikely" here.

elimination—this, like the *definite conclusion of identity*, is the highest degree of confidence expressed by the document examiner in handwriting comparisons. By using this expression the examiner denotes no doubt in his opinion that the questioned and known writings were not written by the same individual.

Examples—It has been concluded that the John Doe of the known material did not write the questioned material, or it is my opinion (or conclusion or determination) that the John Doe of the known material did not write the questioned material.

DISCUSSION—This is often a very difficult determination to make in handwriting examinations, especially when only requested exemplars are available, and extreme care should be used in arriving at this conclusion.

4.1.1 When the opinion is less than definite, there is usually a necessity for additional comments, consisting of such things as reasons for qualification (if the available evidence allows that determination), suggestions for remedies (if any are known), and any other comments that will shed more light on the report. The report should stand alone with no extra explanations necessary.

4.2 *Deprecated and Discouraged Expressions:*

4.2.1 Several expressions occasionally used by document examiners are troublesome because they may be misinterpreted to imply bias, lack of clarity, or fallaciousness and their use is deprecated. Some of the terms are so blatantly inane (such as "make/no make") that they will not be discussed. The use of others is discouraged because they are incomplete or misused.

These expressions include:

- possible/could have**—these terms have no place in expert opinions on handwriting because the examiner's task is to decide to what degree of certainty it can be said that a handwriting sample is by a specific person. If the evidence is so limited or unclear that no definite or qualified opinion can be expressed, then the proper answer is *no conclusion*. To say that the suspect "could have written the material in question" says nothing about probability and is therefore meaningless to the reader or to the court. The examiner should be clear on the different meanings of "possible" and "probable," although they are often used interchangeably in everyday speech.
- consistent with**—there are times when this expression is perfectly appropriate, such as when "evidence consistent with disguise is present" or "evidence consistent with a simulation or tracing is present, but "the known writing is consistent with the questioned writing" has no intelligible meaning.
- could not be identified/cannot identify**—these terms are objectionable not only because they are ambiguous but also because they are biased; they imply that the examiner's task is only to identify the suspect, not to decide whether or not the suspect is the writer. If one of these terms is used, it should always be followed by "or eliminate[d]".
- similarities were noted/differences as well as similarities**—these expressions are meaningless without an explanation as to the extent and significance of the similarities or differ-

ences between the known and questioned material. These terms should never be substituted for gradations of opinions.

cannot be associated/cannot be connected—these terms are too vague and may be interpreted as reflecting bias as they have no counterpart suggesting that the writer cannot be eliminated either.

no identification—this expression could be understood to mean anything from a strong probability that the suspect wrote the questioned writing; to a complete elimination. It is not only confusing but also grammatically incorrect when used informally in sentences such as, "I no identified the writer" or "I made a no ident in this case."

inconclusive—this is commonly used synonymously with no conclusion when the examiner is at the zero point on the scale of confidence. A potential problem is that some people understand this term to mean something short of definite (or conclusive), that is, any degree of probability, and the examiner should be aware of this ambiguity.

positive identification—This phrase is inappropriate because it seems to suggest that some identifications are more positive than others.

[strong] reason to believe—there are too many definitions of *believe* and *belief* that lack certitude. It is more appropriate to testify to our conclusion (or determination or expert opinion) than to our belief, so why use that term in a report?

qualified identification—An *identification* is not qualified. However, opinions may be qualified when the evidence falls short of an *identification* or *elimination*.

The American Society for Testing and Materials takes no position respecting the validity of any patent rights asserted in connection with any item mentioned in this standard. Users of this standard are expressly advised that determination of the validity of any such patent rights, and the risk of infringement of such rights, are entirely their own responsibility.

This standard is subject to revision at any time by the responsible technical committee and must be reviewed every five years and if not revised, either reapproved or withdrawn. Your comments are invited either for revision of this standard or for additional standards and should be addressed to ASTM Headquarters. Your comments will receive careful consideration at a meeting of the responsible technical committee, which you may attend. If you feel that your comments have not received a fair hearing you should make your views known to the ASTM Committee on Standards, 100 Barr Harbor Drive, West Conshohocken, PA 19428.

INVESTIGATING QUESTIONED HANDWRITING AND FORGERY CASES

JOE GAFFNEY
INVESTIGATOR
FEDERAL DEFENDERS OF MONTANA

MONTANA LAW

- 45-6-325, MCA - Forgery
- 45-6-332, MCA - Theft of Identity
- 45-9-104, MCA - Fraudulently Obtaining Dangerous Drugs
- 45-9-110, MCA - Criminal Production or Manufacture of Dangerous Drugs
- 45-7-208, MCA - Tampering with Public records

45-6-325. Forgery. (1) A person commits the offense of forgery when with purpose to defraud the person knowingly:

- (a) without authority makes or alters a document or other object apparently capable of being used to defraud another in a manner that it purports to have been made by another or at another time or with different provisions or of different composition;
- (b) issues or delivers the document or other object knowing it to have been thus made or altered;
- (c) possesses with the purpose of issuing or delivering any such document or other object knowing it to have been thus made or altered; or
- (d) possesses with knowledge of its character any plate, die, or other device, apparatus, equipment, or article specifically designed for use in counterfeiting or otherwise forging written instruments.

(2) A purpose to defraud means the purpose of causing another to assume, create, transfer, alter, or terminate any right, obligation, or power with reference to any person or property.

(3) A document or other object capable of being used to defraud another includes but is not limited to one by which any right, obligation, or power with reference to any person or property may be created, transferred, altered, or terminated.

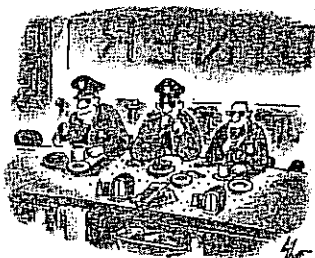
(4) A person convicted of the offense of forgery shall be fined not to exceed \$1,500 or be imprisoned in the county jail for any term not to exceed 6 months, or both. If the forgery is part of a common scheme or if the value of the property, labor, or services obtained or attempted to be obtained exceeds \$1,500, the offender shall be fined not to exceed \$50,000 or be imprisoned in the state prison for any term not to exceed 20 years, or both.

History: En. 94-6-310 by Sec. 1, Ch. 513, L. 1973; R.C.M. 1947, 94-6-310; amd. Sec. 7, Ch. 198, L. 1981; amd. Sec. 7, Ch. 581, L. 1983; amd. Sec. 9, Ch. 616, L. 1993; amd. Sec. 12, Ch. 397, L. 1998; amd. Sec. 12, Ch. 473, L. 2009.

U.S. SUPREME COURT DECISION

- 384 U.S. 757 (1966)
- “The privilege against self-incrimination offers no protection against compulsion to submit to fingerprinting, photographing or measurements, to write or speak for identification.”

DISCOVERY DOCUMENTS



Very Early in the Investigation

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INSTRUCTIONS FOR INVESTIGATOR

1. Have the subject complete the first two exemplar pages with every exemplar taken.
2. Use exemplar C for dictated material. The exemplar taken on this page should be of the same topic as the questioned writing. Analysis is best done when a quantity of writing is available for comparison.

3. Instruct the subject to write in cursive or print — depending on the style in the question document.

4. Have the subject use the same or similar writing instrument as used in the questioned writing.
5. Keep subject under observation while exemplar is being taken.
6. Note subject's physical condition giving attention to the influence of drugs or alcohol.

[illegible]

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| <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 30%;">UNITED STATES</td> <td style="width: 70%;">DEPARTMENT OF JUSTICE</td> </tr> <tr> <td colspan="2" style="text-align: center;">INVESTIGATION</td> </tr> <tr> <td colspan="2"> <div style="display: flex; justify-content: space-between;"> <div> TO : SAC, NEW YORK FROM : SAC, NEW YORK SUBJECT : [REDACTED] </div> <div> DATE : [REDACTED] TIME : [REDACTED] </div> </div> </td> </tr> <tr> <td colspan="2"> CHARACTER OF CASE: [REDACTED] </td> </tr> <tr> <td colspan="2"> SYNOPSIS: [REDACTED] </td> </tr> <tr> <td colspan="2"> DETAILS: [REDACTED] </td> </tr> <tr> <td colspan="2"> REFERENCE: [REDACTED] </td> </tr> <tr> <td colspan="2"> REMARKS: [REDACTED] </td> </tr> <tr> <td colspan="2"> APPROVAL: [REDACTED] </td> </tr> <tr> <td colspan="2"> COPIES OF REPORT: [REDACTED] </td> </tr> <tr> <td colspan="2"> OTHER: [REDACTED] </td> </tr> </table> | UNITED STATES | DEPARTMENT OF JUSTICE | INVESTIGATION | | <div style="display: flex; justify-content: space-between;"> <div> TO : SAC, NEW YORK FROM : SAC, NEW YORK SUBJECT : [REDACTED] </div> <div> DATE : [REDACTED] TIME : [REDACTED] </div> </div> | | CHARACTER OF CASE: [REDACTED] | | SYNOPSIS: [REDACTED] | | DETAILS: [REDACTED] | | REFERENCE: [REDACTED] | | REMARKS: [REDACTED] | | APPROVAL: [REDACTED] | | COPIES OF REPORT: [REDACTED] | | OTHER: [REDACTED] | | <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 30%;">UNITED STATES</td> <td style="width: 70%;">DEPARTMENT OF JUSTICE</td> </tr> <tr> <td colspan="2" style="text-align: center;">INVESTIGATION</td> </tr> <tr> <td colspan="2"> <div style="display: flex; justify-content: space-between;"> <div> TO : SAC, NEW YORK FROM : SAC, NEW YORK SUBJECT : [REDACTED] </div> <div> DATE : [REDACTED] TIME : [REDACTED] </div> </div> </td> </tr> <tr> <td colspan="2"> CHARACTER OF CASE: [REDACTED] </td> </tr> <tr> <td colspan="2"> SYNOPSIS: [REDACTED] </td> </tr> <tr> <td colspan="2"> DETAILS: [REDACTED] </td> </tr> <tr> <td colspan="2"> REFERENCE: [REDACTED] </td> </tr> <tr> <td colspan="2"> REMARKS: [REDACTED] </td> </tr> <tr> <td colspan="2"> APPROVAL: [REDACTED] </td> </tr> <tr> <td colspan="2"> COPIES OF REPORT: [REDACTED] </td> </tr> <tr> <td colspan="2"> OTHER: [REDACTED] </td> </tr> </table> | UNITED STATES | DEPARTMENT OF JUSTICE | INVESTIGATION | | <div style="display: flex; justify-content: space-between;"> <div> TO : SAC, NEW YORK FROM : SAC, NEW YORK SUBJECT : [REDACTED] </div> <div> DATE : [REDACTED] TIME : [REDACTED] </div> </div> | | CHARACTER OF CASE: [REDACTED] | | SYNOPSIS: [REDACTED] | | DETAILS: [REDACTED] | | REFERENCE: [REDACTED] | | REMARKS: [REDACTED] | | APPROVAL: [REDACTED] | | COPIES OF REPORT: [REDACTED] | | OTHER: [REDACTED] | |
| UNITED STATES | DEPARTMENT OF JUSTICE | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| INVESTIGATION | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| <div style="display: flex; justify-content: space-between;"> <div> TO : SAC, NEW YORK FROM : SAC, NEW YORK SUBJECT : [REDACTED] </div> <div> DATE : [REDACTED] TIME : [REDACTED] </div> </div> | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| CHARACTER OF CASE: [REDACTED] | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| SYNOPSIS: [REDACTED] | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| DETAILS: [REDACTED] | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| REFERENCE: [REDACTED] | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| REMARKS: [REDACTED] | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| APPROVAL: [REDACTED] | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
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| UNITED STATES | DEPARTMENT OF JUSTICE | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| INVESTIGATION | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
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| SYNOPSIS: [REDACTED] | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
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| APPROVAL: [REDACTED] | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
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| OTHER: [REDACTED] | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |

The Egyptian Letter

Dear Sam:

From Egypt we went to Italy, and then took a trip to Germany, Holland and England. We enjoyed it all but Rome and London most. In Berlin we met Mr. John O. Young of Messrs. Jackson & Co., on his way to Vienna. His address there is 147 upper Zaria Street, near Dr. Quincy W. Long. During the 18th, we join C. N. Saret, Jacques and Mrs. Saret, and leave at 6:30 A.M. for Paris on the 'O. N.' Express and early on the morning on the 23th of June start for home on the S. S. Kilm.

Very sincerely yours,

The Class of "16" Letter

Dear Zach,

Well, the old class of "16" is through at last. You ask where the boys are to be. Well Brown goes on the 24th to Harvard for law. Don't forget to address him as "Tampare." Ted Updike takes a position with the N. Y. W. H. at 11 R. H. #32 Lodi Ave. Fall River, Massachusetts, and Jack McQuade with the N. L. & W. at Jersey City, N. J. 430 E. 10th Street. William Tellers just left for a departmental position in Washington; his address is 715 South G. St. At last account, Max King was to go to Johns Hopkins for a Ph.D. degree. Think of that! Ellison goes to Xenia, Ohio, to be a Y. M. C. A. secretary. I say there for the present. What do you do next? How about Idaho?

Yeast, fruit, and weather

[illegible]

"Our London business is good, but Vienna and Berlin are quiet. Mr. D. Lloyd has gone to Switzerland and I hope for good news. He will be there for a week at 1496 Zermott St. and then goes to Turin and Rome and will join Col. Parry and arrive at Athens, Greece, Nov. 27th or Dec. 2nd. Letters there should be addressed: King James Blvd. 3580. We expect Chas. E. Fuller Tuesday. Dr. L. McQuaid and Robt. Unger, Esq., left on the "Y.X." Express tonight."

The image shows three identical, vertically stacked forms for recording information about a person's death. Each form contains the following fields:

- Name**: A line for the full name.
- Age at death of**: A line for the age at death, followed by a small box for the unit (e.g., years, months, days).
- Sex**: A line for the sex of the deceased.
- Date of death**: A line for the date of death, followed by a small box for the unit (e.g., years, months, days).
- Cause of death**: A line for the cause of death, followed by a small box for the unit (e.g., years, months, days).

The forms are blank, with only faint lines and labels visible.

[illegible][illegible]

WHAT IS WRITING?

- It is the "most permanent and unconscious of human habits."

Albert S. Osborn, 1910

16

WHAT IS DOCUMENT EXAMINATION?

- "Document examination is the discipline that seeks to determine the history of a document by technical or scientific process."

Roy A. Huber

17

WHY IS DOCUMENT EXAMINATION CONDUCTED?

- Genuineness of a document or signature
- Identification of the document source
- Elimination of the document source
- How document was produced

18

BASIC PREMISE

- "It is true that genuine writing by the same writer does vary.....The arm hand and fingers under direction of the brain do not constitute an absolutely accurate reproducing machine, like an engraved plate or printing press, and certain natural divergences are inevitable."

Albert S. Osborn, 1910

19

BASIC PREMISES

- No person writes exactly the same way each and every time they write
- No two people write exactly the same
- Identification is not always achieved
- Can't compare cursive with printing

20

Continued...

- No one can successfully write above their own skill level
- Handwriting quality and structure deteriorates over time (age and health)
- Quality is not related to legibility, i.e., rapid scrawl of a physician
- Highest degree of variation is found in signatures

21

Joseph P. Gaffney
 Joseph P. Gaffney
 Joseph P. Gaffney
 Joseph P. Gaffney
 Joseph P. Gaffney
 Joseph P. Gaffney

22

Michelle Haab
 Michelle Haab
 Michelle Haab
 Michelle Haab
 Michelle Haab
 Michelle Haab

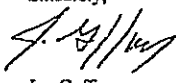
23

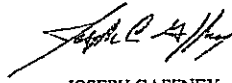
I AGREE TO PAY ABOVE TOTAL AMOUNT
 ACCORDING TO CARD ISSUER AGREEMENT
 X Joseph Gaffney
 JOSEPH GAFFNEY

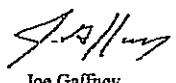
I AGREE TO PAY ABOVE TOTAL AMOUNT
 ACCORDING TO CARD ISSUER AGREEMENT
 X Joseph Gaffney
 JOSEPH GAFFNEY

I AGREE TO PAY ABOVE TOTAL AMOUNT
 ACCORDING TO CARD ISSUER AGREEMENT
 X Joseph Gaffney
 JOSEPH GAFFNEY

24

Sincerely,

 Joe Gaffney
 Investigator
 Federal Defenders of Montana

Sincerely,

 JOSEPH GAFFNEY
 Investigator
 Federal Defenders of Montana

Sincerely,

 Joe Gaffney
 Investigator
 Federal Defenders of Montana

16

WHAT EXAMINERS LOOK FOR

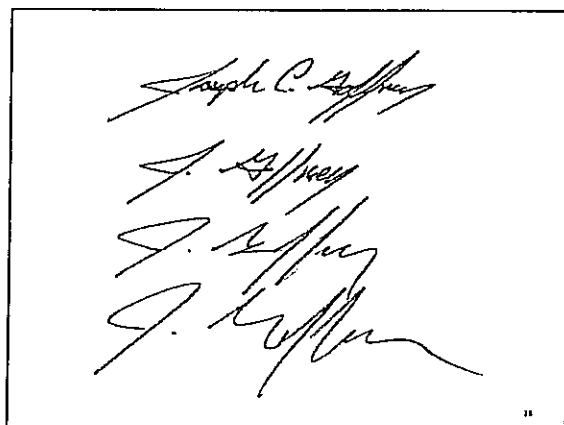
- Deviation or departure from copy book.
- How an individual has developed their own individuality or style in their writing within variation
- Does the document appear to be naturally written?
- Is the writing "normal" or "free flowing"?
- Are there hesitation marks or pen lifts?
- Speed of Writing

17

Continued...

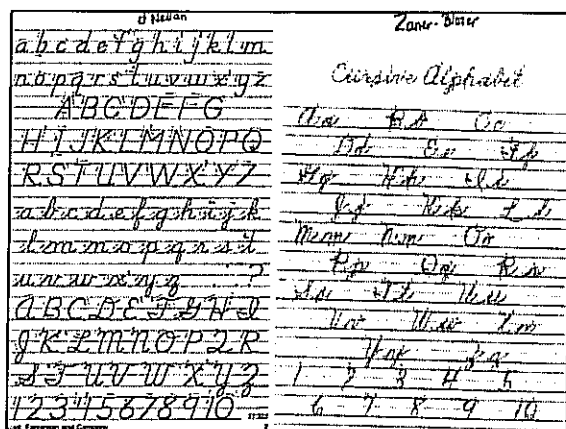
- Signs of health conditions of the writer
- Contemporaneous of the questioned and known document
- Is the questioned document a simulation, tracing, disguise, free-style or memory?
- One writer or multiple writers
- Does the writing appear "deliberate"?

18

[illegible]

COPY BOOK SYSTEMS

- 76 different writing systems (Copy Book) in United States and Canada.
- D'Nealian
- Zaner-Bloser
- Vintage Palmer

[illegible]

"Vintage Palmer" (VP) Cursive

This is the VP Cursive style. Read on a copy of a 1924 Palmer book. Here are the capital letters in the VP Cursive font.

A B C D E F G H I J
K L M N O P Q R S T
U V W X Y Z

When you type using a VP Cursive font, some of the letters are linked. That's great for saving the individual letters, but doesn't help with cursive handwriting.

a b c d e f g h i j
k l m n o p q r s
t u v w x y z

All you have to do to get the proper connections is to run the Liallister program we supply you - after you have finished your typing. Takes about 10 seconds. This is the result:

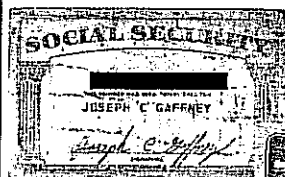
a b c d e f g h i j k l m n
o p q r s t u v w x y z

These are screen shots of our old VP Cursive fonts. Each font has been retouched to make it easier to read on the web. They look much, much better when you have installed the fonts on your computer and print them. We can send you a printed sample sheet so you can see how the fonts really look.

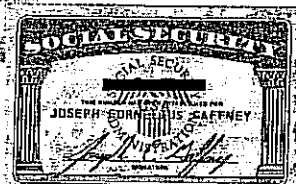
VP Cursive
VP Cursive Outlines

11

DEPARTURE FROM COPY BOOK



1974



2004

32

DOCUMENTS NEEDED FOR EXAMINATION

- Use of handwriting exemplars
- Contemporaneous known handwriting samples
- Unsolicited handwriting samples – Request and non-request
- Original documents, if available
- Questioned document

33

TOOLS OF THE TRADE

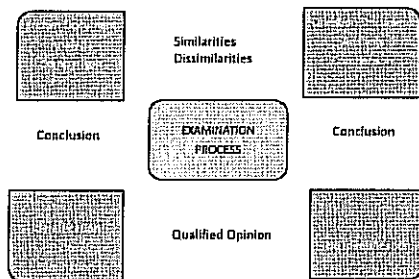
- Eye for detail
- Magnification with scale
- Stereomicroscope
- Electrostatic Detection Apparatus (ESDA)
- Video Spectral Comparator (VSC)

14

EXAMINATION

- Questioned and known documents are analyzed for individual characteristics
- Identifiable characteristics of questioned document are compared to known document
- Evaluation of similarities and dissimilarities between the questioned and known documents and their values are determined for an opinion
- No identification can be attributed to the questioned material being too general in nature, too limited, too distorted, or too highly disguised

15



16

ELEMENTS OF EXAMINATION

- Handwriting characteristic, i.e., arcade, angular, round, peaks, mountains and valleys
- Letter forms
- Beginning and ending strokes
- Spacing between letters
- Size and relationship between tall and small letters
- Size relationship between total height of a letter compared with other parts of the same letter

17

Continued...

- Relative pressure
- Shading – writing instrument
- Connecting strokes between letters
- Special marks such as I-dots and T-crosses
- Baseline of writing
- Line quality/skill of writing/speed
- Slant of writing
- Size of writing

18

- Habit (checks)
- Layout

| | |
|---|-----------------------|
| Date <u>8-1-89</u> | |
| Pay to the order of <u>Walmart</u> | \$ <u>100.00</u> |
| <u>One hundred dollars and 00/100</u> dollars | |
| Date <u>8-1-89</u> | |
| Pay to the order of <u>Walmart</u> | \$ <u>100.00</u> |
| <u>One hundred dollars and 00/100</u> dollars | |
| Amount <u>Food</u> | <u>Spina Williams</u> |
| Date <u>8/1/89</u> | |
| Pay to the order of <u>Walmart</u> | \$ <u>100.00</u> |
| <u>One Hundred +</u> dollars | |
| Amount <u>Shirts</u> | <u>John P. Giff</u> |

[illegible][illegible]

INFLUENCING FACTORS OF HANDWRITING

- Authors natural ability, i.e., shoulder-arm-hand finger coordination, motor or movement skills
- Skill level will never exceed authors ability
- Physical condition, i.e., drugs, alcohol, injury and illness
- Writing position
- Writing surface
- Writing instrument

42

CONCLUSIONS

- "An examiner is not required to reach a conclusion after every examination. It is perfectly professional to request further specimens or to find insufficient material for examination."

Jay Levinson

43

11. K3 - "The Egyptian Lover"
12. K4 - "Who Was," "Tempt" and "Admission" about.
13. C7 - "Admission of Possession and Receipt" form dated November 18, 2008
14. Q8 - "Advice of Rights" form dated July 19, 2008 at 3:30 P.M.
15. Specimens K1, K2 and K3 were prepared to be written by Mr. Costa using her left hand. Specimens K4, K5 and K6 were prepared to be written by Ms. Costa using her right hand.
16. Specimens C7 and Q8 were prepared to be written by Mr. Costa but it is unknown if written.
17. After examining all submitted specimens, the Yolanda Costa signature on Q8, Advice of Rights form dated July 19, 2008, was written by Ms. Costa using her right hand.

19. After examining all submitted specimens, the Yolanda Costa signature on Q8, Advice of Rights form dated July 19, 2008, was written by Ms. Costa using her right hand.

FURNISH FOR ATTY. GEN.

Joseph C. Gaffney
Federal Law Enforcement Training
Federal Institute of Management
P.O. Box 9180
Harrisburg, PA 17107
(717) 221-4750

44

MEMORANDUM

To: Jerry Messer
Date: 09/23/06
From: QFD Criminal Investigator Joe Gaffney
Re: Questioned Document Examination

On September 8, 2006, I received a brown envelope from QFD Investigator Vanda Shingler of the Hazen Regional Office.

Enclosed were documents for me to examine and determine whether or not the handwriting on questioned document, QD1, was written by Jeremy Tippets.

The following questioned and known handwritten documents were provided by Vanda Shingler for comparison:

QD1 Jon Karl Blanks Check #1070 for \$150.00
K1 7 handwriting exemplars from Jeremy Tippets

On September 13, 2006, I received the following known documents from Vanda Shingler for comparison:

K2 6 handwriting exemplars from Jeremy Tippets

FINDINGS:

Upon comparison of the questioned document with the known documents written by Jeremy Tippets, I found significant dissimilarities between the questioned document, QD1, and the known documents, K1 and K2. Therefore, in my opinion, it is highly probable that Jeremy Tippets IS NOT the author of the questioned document (QD1).

WHAT JUDGES CONSIDER UNDER DAUBERT

- Has the expert's theory or technique been tested? (Slide 8 - Basic Premises)
- Has the expert's theory or technique been subjected to peer review and publication? (ABFDE Certification)
- Is there a known or potential error rate for this procedure? (ABFDE Three-tier Testing for CERT.)
- Are there standards controlling the technique's operation? (ASTM International & SWGDOC)
- Is the theory or technique generally accepted by the relevant scientific community? (AAFS Acceptance)

Jan Seaman Kelly

51

PEER REVIEW

- Did the examiner have his work checked by another examiner?

51

FUTURE OF QUESTIONED HANDWRITING EXAMINATION

- Computers
- Emails
- Cell phones
- Text messaging

54

HELLGATE KNIGHTS VARSITY FOOTBALL
TEAM

